

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton **High School Auditorium, 100 North Brayton Road**, on the 25th day of July 2016 A.D. at 7:00 p.m.

President deMedeiros opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Denise M. deMedeiros - President	Jay J. Lambert	Peter A. Mello
	Joan B. Chabot – Vice President	Brett N. Pelletier	David Perry
	Joseph R. Sousa		

Town Administrator, Matthew Wojcik and Town Solicitor Anthony DeSisto were also present.

Approval of Consent Agenda:

All items listed with “(CA)” are to be considered routine by the Town Council and will ordinarily be enacted by one motion. There will be no separate discussion of these items unless a member of the Council, or a member of the public so requests and the Town Council President permits, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President deMedeiros read the items on the Consent Agenda; there were no items removed.

Councilor Perry made a motion to Accept the Consent Agenda, seconded by Councilor P. Mello passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Executive Session Minutes Special Meeting of May 2, 2016
- b. Approval of Executive Session Minutes Meeting of May 9, 2016

A-2-Receipt of Minutes from the Following Boards, Commissions:

- a. Cemetery Commission
- b. Harbor and Coastal Waters Management Commission

A-3-Correspondence – Receive and File:

- a. City of Newport Resolution Commemorating 226th Anniversary of “Hope Day: Birth of Our Nation”

A-4-Approval of Tax Assessor’s Abatements

A-5-Marc Rousseau, Administrative Officer – Activities Report for June 2016

BUSINESS BROUGHT BEFORE THE COUNCIL

B-PUBLIC HEARINGS:

Advertised Public Hearings

1.Kelsey Manchester and Michael Hetu, 3618 Main Road – Public Hearing for Sound Variance Special Event/Outdoor Entertainment Wedding Reception To Take Place On Saturday, August 13, 2016 from 12:00 noon to 12:00 am

Ms. Manchester and Mr. Hetu will be getting married and holding a reception on their property at 3618 Main Road. President deMedeiros opened the public hearing for comments; hearing none closed the public comment portion. They called the neighbors and in the Council packet was a letter of support from one of the abutters. It was advertised in the newspaper, can go forward with this hearing. Abutters notice indicated public hearing at Town Hall; already advertised prior to change of location of Council meeting.

Councilor Pelletier made a motion to Approve the Sound Variance Special Event to take place on Saturday, August 13, 2016 from 12:00 noon to 12:00 a.m. The motion, seconded by Councilor Lambert passed unanimously.

2. Proposed Amendment to Appendix C, SEWERS AND SEWAGE DISPOSAL of the Town Code of Ordinances, to Reflect the Creation of the Tiverton Wastewater District (TWWD) as a Separate Entity From the Town and to Reflect the TWWD has Taken Over Jurisdiction of Maintenance, Care and Control of Sewers in the Town.

Solicitor DeSisto explained this proposed amendment reflects the creation of the Tiverton Wastewater District (TWWD) sewer system in Town. All references to the Code, Chapter 18 that reflect to the Town have been deleted. The out systems that relate to the Town remain; it's a technical matter as a separate entity runs the septic system. President deMedeiros opened the hearing to the public. Bill Lopes, Old Colony Terrace suggested the number of sewer districts should be included to be more specific. Solicitor DeSisto explained that will be handled by the TWWD. Councilor Chabot noted Riverside and Robert Gray are projects being managed by TWWD, just an expansion of the sewer line in those areas. President deMedeiros called for more comments, hearing none closed this portion of the public hearing.

Councilor Pelletier made a motion to Approve the Amendment to Appendix C, SEWERS AND SEWAGE DISPOSAL of the Town Code of Ordinances as drafted. The motion, seconded by Councilor Chabot passed unanimously.

AMENDED APPENDIX ATTACHED AT END OF MINUTES

3. Proposed Amendment to Chapter 30, COURTS, ARTICLE II, MUNICIPAL COURT of Tiverton Code of Ordinances. Regarding the Term of the Municipal Court Judge's Appointment, the Manner of Appointing an Acting Municipal Court Judge or Clerk in Cases of Sickness, Absence, or Other Disability, Effect Municipal Court Rules of Procedure & Various Other Changes with Regard to the Municipal Court

Solicitor DeSisto explained this creates a set of rules of procedure for Municipal Court, cited page 2, Rule 2 to have fairness in administration and the elimination of unjustifiable expense and delay. Essentially this is a re-statement of the RI District Court Rules of Civil Procedure as required for these types of hearings. The Solicitor did not draft this document, done by the previous Solicitor's office. Several matters that are heard in Municipal Court for land use are being made civil instead of criminal. The Solicitor cited Rule 3, Section 30-53 Summons and Complaint, page 5 Rule 12, Section 30-62, Place and prosecution of trial and Rule 17 for the types of things that are used for civil penalties; suggested they be eliminated. Rule 28 has to do with the operations of the Clerk; would like these to be amended. It is a more efficient change to procedure. Solicitor DeSisto suggested making these brief amendments so it could be delayed to the next meeting for another draft.

Councilor Pelletier made a motion to continue this to August 9. The motion, seconded by Councilor Chabot passed unanimously.

President deMedeiros noted the next item could be lengthy, called for a motion to bring forward Appointments and Resignations.

Councilor P. Mello made a motion to bring D, Appointments & Resignations forward. The motion, seconded by Councilor Chabot passed unanimously.

Item moved up in the agenda.

D-APPOINTMENTS & RESIGNATIONS:

Resignations

1. Paul Caron, 170 Nanaquaket Road – Tax Assessment Board of Review

Councilor Perry made a motion to Accept with regret and thanks for service the Resignation of Paul Caron from the Tax Assessment Board of Review. The motion seconded by Councilor Pelletier passed unanimously.

Appointments

Planning Board – (4) Vacancies – Three Year Terms Expiring 7/15/2019

President deMedeiros noted these three applicants were interviewed at the last meeting.

2. Melissa Hutchinson, 203 Hooper Street – Planning Board – New Request

Councilor Pelletier made a motion to Appoint, Melissa Hutchinson, 203 Hooper Street, to a vacancy on the Planning Board to a Three Year Term expiring 7/15/2019. The motion, seconded by Councilor Chabot passed unanimously.

3. Patricia Cote, 67 Wampanoag Lane – Planning Board – Re-Appointment Request

Councilor Perry made a motion, seconded by Councilor Pelletier to Reappoint Patricia Cote, 67 Wampanoag Lane, to the Planning Board for a Three Year Term expiring 7/15/2019. The motion passed unanimously.

4. Stuart Hardy, 51 Summerfield Lane – Planning Board – Re-Appointment Request

Councilor Lambert made a motion to Reappoint Stuart Hardy, 51 Summerfield Lane, to a Three Year Term on the Planning Board expiring 7/15/2019. The motion, seconded by Councilor Pelletier passed on a vote of 6-1, Councilor Perry opposed.

Harbor Commission – (5) Vacancies – Two Year Terms Expiring 7/15/18

5. Bruce H. Cox, 35 Sunset View Drive – Harbor Commission - Re-Appointment Request

Councilor Perry made a motion, seconded by Councilor Pelletier to Reappoint Bruce Cox, 35 Sunset View Drive to the Harbor Commission for a Two Year Term expiring 7/15/18. The motion passed unanimously.

Donna Cook questioned who was in charge of the minutes of the Planning Board, President deMedeiros explained that had nothing to do with appointments; was not for discussion at this point.

6. Melinda Foley-Marsello, 3991 Main Road – Harbor Commission – Re-Appointment Request

Councilor Pelletier made a motion to Reappoint Melinda Foley-Marsello, 3991 Main Road to the Harbor Commission for a Two Year Term expiring 7/15/18. The motion, seconded by Councilor Chabot passed unanimously.

7. Peter W. Corr, 500 Eagleville Road – Harbor Commission – Re-Appointment Request

Councilor Pelletier made a motion to Appoint Peter Corr to a Two Year Term to the Harbor Commission. The motion, seconded by Councilor Perry passed unanimously.

Councilor Pelletier noted there were 2 vacancies on the Harbor Commission and one on the Planning Board.

4. Proposed Tiverton Home Rule Charter Amendments Received (9) for November Ballot

Solicitor DeSisto, explained procedure to Council same as public hearing; can vote to forward the proposed amendments to the Secretary of State. The Town Council is not bound to forward each one to the voters; it takes a vote of the majority of the Council. The deadline to get these to the Secretary of State is August 10. The advertising was done in the form of the questions; President deMedeiros planned to take each item separately prior to opening the meeting; requested comments be kept brief, anticipated a long meeting.

- a.Councilor Perry – Amendment Regarding Amount of Signatures Needed for FTR Alternate Petition**
- b.Councilor Perry – Regarding Limiting Changes to Budget Committee’s Recommendation For Operating Budget Only to No More or Less than \$200,000**
- c.Town Solicitor – Section 1010- Removal of Wastewater Management Commission**
- d.Town Administrator – Section 1007- Personnel Board – Amendment for Advertising Requirements**
- e. Justin Katz – Regarding Balloting on Major Appropriations - Adding Substantial New or Increased Fees or Other Revenues and Requiring Local Voter Approval Prior to Implementing New or Increased Fees or Other Revenue Sources Projected to Cost Residents \$20,000 or More Than Cost in Prior Year**
- f.Jeff Caron/Nancy Driggs – Requiring Budget Committee to Obtain Approval of at Least Four Fifths of Its Membership Before Recommending Any Tax Levy Increase Greater Than 2 %More Than Prior Year**
- g.Madeline O’Dell – Regarding Holding Executive Sessions at End of Council Meetings**
- h.Peter Moniz – Regarding Providing Specific Line Items to Be Increased, Decreased or Created on Petitioner’s Budget Proposal**
- i.Councilor Perry – Regarding Eliminating the Budget Committee and the Financial Town Referendum and Replacing With a Process Whereby the Town Council Enacts a Budget Subject to Possibility of an Elector Petition for Specific Changes to the Budget**

Councilor Perry explained this amendment would eliminate the 50 signatures needed to put in an alternate petition and increases that to 10% of the electors, just like Portsmouth. Councilor Sousa noted there would be a lot of State questions on the ballot, opined long overdue for a Charter Review Commission. Councilor Chabot questioned what the 10% would be like at this point in time. Councilor Perry estimated over 12,000 voters; would be 10% of the eligible voters. Councilor Chabot opined the 50 signatures seemed reasonable; in Section 1212 for the Override to amend an ordinance it takes 500 signatures. Tiverton is not like Portsmouth doesn’t need to follow another Town; originally the Financial Town Meeting (FTM) had a quorum of 301. This seems outrageous to go from that to over 1,200 to put forth a petition; was against moving this proposal forward. Councilor Perry disagreed was not happy over the last three years, heard from a lot of residents about this as well. Councilor Pelletier questioned the exact language. Solicitor DeSisto will have to draft the exact language. President deMedeiros agreed with Councilor Sousa about a Charter Review Commission and will have a proposal sometime in the future. This would be a two year process, probably need a special election. President deMedeiros opened this part of the hearing for this proposed amendment.

Jeff Caron, Nanaquaket Road, read the advertising regarding a copy of the proposed amendments available at the Town clerk’s office. Mr. Caron went to the Clerk’s office and did not find language available for items 1, 2, 4 and 7. The Charter provides 7 days to get 50 signatures and not 1,400 in one week; Mr. Caron opined this was an attempt to take away the elector petition. Mr. Caron noted the resolutions would also require the same amount of signatures, did not have language to look at to see the impact on resolutions. Solicitor DeSisto did have the language in his computer; the Town Clerk did not have it, everything that is here in the Council packet was available to the public. Councilor Lambert did not believe 50 signatures was enough; Mr. Caron felt appropriate number was 50, has to be some reasonableness on the burden to the people; suggested doubling or tripling the time if additional needed. Councilor Sousa opined 50 works, not enough people get involved in Town government. Donna Cook, Hilton Street, opined the bloated budgets were not the problem of the number of signatures. John Edward, Randolph Avenue, supported Councilor Perry and the 10% figure. DeEtta Moran, Village Road, noted for the last two elections the participation was between 12 and 14 percent; opined 50 was not unrealistic. Sanford Mantel, looked up the number of voters, 1,224 passed budget number 2; trying to throttle the people’s ability to put an alternate budget proposal. Roger Belanger, Stafford Road, suggested a more reasonable number than 10%. Elizabeth Lopes, Old Colony Terrace, the perception of 1,400 signatures is retaliatory in nature.

Councilor Lambert asked the Solicitor if the Council was allowed to make any changes at all to any of these proposals. Solicitor DeSisto cited Article 13, Section 8 of the RI Constitution, where the Council has the power to amend these proposals and forward them to the voters. A second public hearing was not needed; the Charter refers to the State Constitution for the amendment of the Charter. Councilor Pelletier noted some of these proposals don’t have language. Solicitor DeSisto pointed out item B4 in the Council packet has the language; language can be dealt

with at this meeting. The Ballot Questions are B4 in the packet. Councilor Lambert clarified with the Solicitor the Council could change the percentage and time relative to number 1. Solicitor DeSisto explained the question would capture the amended language. Justin Katz, Cottrell Road, noted the question said nothing about timing. Mr. Katz opined this was legally questionable for open meetings; there is no language that specifically says. Mr. Katz opined this was a clear attempt to limit the voices of the people. Jerome Larkin questioned if the Council could vote on this, does not have the language; was advertised as having the language available. Mr. Larkin suggested this was outside the open meetings act. Solicitor DeSisto opined was not an open meetings act violation; this meeting was advertised adequately. President deMedeiros proposed a special meeting on August 1 to advertise and continue this public hearing. Solicitor DeSisto noted if the public hearing continues the notice stands; can put additional language at Town Hall for the next meeting. Councilor Perry was prepared to make a motion to continue a, b, d and g. Mr. Larkin, not a fan of the FTM, suggested looking at the whole process and the deliberations of the Budget Committee

Councilor Perry made a motion to have 4a, 4b, 4d and 4g tabled until August 1.

Mr. Caron suggested being compliant with the advertising for August 1; the meeting should be on August 3 or 4 in order for there to be ten days' notice for the public hearing. Solicitor DeSisto explained there was no ten day requirement under the State Constitution Article 13. Councilor Pelletier suggested they be taken in their entirety; not indiscrete items. Councilor Pelletier noted none of these proposals were submitted by the Town Council; some by individuals and by individual members of the Council.

Councilor Perry withdrew the motion to have 4a, 4b, 4d and 4g tabled until August 1.

Councilor Perry made a motion to take all 9 proposals on the Town Charter Amendments putting them on August 1. The motion was seconded by Councilor Chabot. Councilor Chabot proposed taking item 4c, the removal of references to Wastewater Management Commission as that language is complete. Councilor Sousa wanted to take more time to review all the proposals. The motion passed on a vote of 6-1, Councilor Chabot opposed.

President deMedeiros noted this public hearing would be continued for one week. Town Clerk Mello noted this will not be advertised and will be available as soon as possible. The Town Clerk will also not be in attendance at the August 1 meeting.

At this time, 8:45 p.m. the Town Council took a five minute break.

C-TOWN COUNCIL SITTING AS BOARD OF LICENSING

NON ADVERTISED LICENSES

There were no topics for this item on the agenda.

E-UNFINISHED BUSINESS:

1. Town Administrator - Fiscal Year 2016/17 Budget – Follow-up on Savings Options/Application to Trash Collection Contract

President deMedeiros along with Councilor Perry, the Town Administrator and the Town Treasurer looked at the budget for additional savings. The \$200,000 in savings comes from a variety of sources. This will not meet the \$500k that was cut but will prolong the trash pickup for another 5-6 months. The Council President will continue to meet with the Treasurer and Administrator to look for additional savings. The Council President made clear the Budget Committee (BC) did not have these facts when they made the cut to the trash program. Town Administrator Wojcik was directed by the Council to come up with a fee arrangement and to identify any additional savings in line items. Administrator Wojcik explained the recommended savings would come from discontinuing dental insurance for retirees. The Fire Department will phase out three antiquated lines for a \$6k savings. A new DPW Director has not been hired, by the time this is advertised and interviews conducted will be 6 months. T/A opined it would be necessary to discontinue yard waste pickup, a separate service. Each run is \$5,811, picked up 11 times; estimate

\$40k in savings. President deMedeiros received several calls from residents who recall the DPW used to pick up yard waste; like to consider having them do this service. Councilor Sousa suggested having a call list to pick up yard waste. The Treasurer received permission to refinance the school bond for Fort Barton to take advantage of lower interest rates for a projected savings of \$93k. That figure may be even better based on the closing documents. Councilor Pelletier had a problem taking from the Group Insurance as discussed at previous meetings. President deMedeiros noted the Council had to do something. Councilor Lambert noted some of these items may be a one shot deal. President deMedeiros made clear the Town Council had to cut over \$700k from the budget.

F-FINANCIAL BUSINESS:

There were no topics for this item on the agenda.

G-NEW BUSINESS:

1. TFD Chief Lloyd - Presentation and Submission of Retention and Recruitment Committee Report

Fire Chief Robert Lloyd presented a report from the Retention Committee which consisted of Chief Lloyd, Captain Joseph Plocica, Captain Craig Committo, Linda Larsen, Councilors Perry and deMedeiros and Administrator Wojcik. The Committee spent several months discussing how to retain personnel and get new recruits. Since 2011 there have been 23 members that left to go to a larger department with higher salaries. The recent change in the work schedule resulted in the department going from 32 to 28 members. Some of the reasons looked at were incentives, getting involved in the community, service appreciation and financial opportunities. The Department is not getting the number of candidates that used to apply; the Police Department uses an electronic application process. Need to look at how to make it more affordable to get certification; looking at ways to make the ideas that were discussed work. Councilor Sousa suggested salaries need to be more competitive with other communities. Chief Lloyd noted a cadet program was discussed as a way to get younger people interested. It takes 6-7 months to get a new employee in the door. There are a lot of intangible costs involved for new employees; making progress. Chief Lloyd commended the members of the Committee who will continue to work on the retention and recruitment process. Councilor Perry thanked the Council President for being appointed to this committee; pleased with the open dialogue between the committee and the members. Councilor Perry thanked the Council for passing the ability to have Lateral Transfers, got to keep 4 more people. President deMedeiros noted the Police Department came to the Council and requested the same process. Chief Lloyd opined the open dialogue was very important and relative to the online process over 100 applied and only 2 saw it the ad in the newspaper. There were 7-8 females who applied, all were invited to take the written test; did not get a passing score. Tried to lower the requirement to EMT Basic with letters they will continue to get the certification for Cardiac. The Lateral transfers have been a tremendous help. The cost is borne by the applicant, lost one-third at the beginning who did not pass the basic. The online process has shortened the time span, commended Chief Lloyd for getting the online program. Chief Lloyd noted earlier this year there were five cardiac events and all were saved.

2. Councilor Pelletier – Stone Bridge Abutment Project

a.Presentation and Update from Stone Bridge Abutment Ad Hoc Subcommittee

b.Council Approval to Finalize and Submit CRMC Assent Permit Application

Councilor Pelletier had provided a spreadsheet with a bar graph on the time line for the Abutment project. The backup included minutes from the subcommittee meetings; went over all the plans and documents from VHB. Identified some things that needed to be changed, met with all the stakeholders and made some minor recommendations to the design. Currently at the design approval phase; wanted everyone to understand these are CRMC permit applications only. There will be another presentation to the Council on the actual construction set; the plan will likely change based on input from CRMC. The CRMC permit is likely to take 6 months; probably have to get Army Corps of Engineers approval and some RIDOT approvals. Actively talking to the Harbor Commission in conjunction with the Grinnell's Beach Improvement Committee and other agencies. Looking to coordinate with the Beach Committee regarding the electric service. The subcommittee is recommending the 90% design, alternate plan 5; that was the design set presented by VHB about 1.5 months ago. Councilor Pelletier was looking to get Council approval to proceed. The North side railing will be moved a little more to the north, VHB will include the railing so it's not on the wall. The railing material or alternatives will be part of the construction

bids. Not recommending the pressure treated wood railing material but will include in the specs wood alternatives; lighting is essential for safety and security of that area. The lighting will be on the south side of the abutment which will spill over into the parking lot. There will be conduits throughout the entire scheme; on dock lighting will be reserved for a future date. The next step is to get approval from the Council to submit the CRMC application permit.

Councilor Sousa questioned the sheet pile wall; will that be an additional 3.5 feet north of the sheet pile. Councilor Pelletier explained the rip rap was not acceptable to CRMC; Dave Vannier added the sheet pile gives much better stability. A typical section of the abutment would have the face of permanent sheeting, existing stone wall or rubble, a concrete cap and then the face of the wall. Councilor Pelletier reiterated this is not the final design approval; it's for the CRMC permit application only. CRMC will likely suggest modifications and edits. It is possible to get this constructed in 2017, may take more time than that. There were additional questions that Councilor Pelletier followed up on with Jack Madden and Bill DeSantis; all the concerns were addressed. Chief Lloyd also had suggestion about the stand pipe. Councilor Perry congratulated Councilor Pelletier and his team on getting this don; have made a lot of progress in four weeks. Councilor Pelletier explained it was a matter of asserting control over the project.

Councilor Perry made a motion to Approve to Finalize and submit CRMC Assent Permit Application. The motion, seconded by Councilor Sousa passed unanimously.

3.Town Planner Marc Rousseau – Approval of Option Agreement for Long-Term Lease of Real Property in Tiverton Business Park to Bluesphere Corporation, Charlotte, NC - Assessor Map 107, Lots 813, 814, 815, 817 & 818 Including Transport Drive

Town Planner Marc Rousseau noted the Council was familiar with Bluesphere Corporation; the facility takes food waste and converts it into materials or electricity and sells it back to the grid. They are looking to do 1 megawatt facility, small window to apply. They need a more definitive agreement; the Planner recommended an option to lease. A new law in RI limits tangible property tax at \$5k. The option to lease the 7.9 acres of land in the Park includes annual lease payments of \$60k for 20 years with extensions of 5 years. Bluesphere would pay for a 12" sewer line of 1,700 feet on Progress Road; the Longplex complex would be able to tie in. The entire road is 2,500 feet so this would increase the value to that area. Mr. Rousseau was recommending the Town Council approve the option lease agreement subject to Solicitor review. Councilor P. Mello questioned if this would interfere with Emera if they decided to purchase. Mr. Rousseau explained that would not interfere; Emera will come to the Council for the next Executive Session to present a proposal for 30 acres. Councilor Sousa was concerned about the traffic and the intersection, road improvements and the infrastructure. Councilor Perry read a newspaper article about Legacy still being interested in the park. Mr. Rousseau noted correspondence received from them was on the Consent Agenda a couple of months ago. They were suggesting a scaled down proposal to be located at the entrance to the Park. Councilor Sousa formally requested the Administrator get Legacy in for a presentation. The only feedback Mr. Rousseau received was a request to extend the option period to March 31, 2017. Councilor Pelletier recommended a floor on the CPI adjustment or a reference to an assignment of the option or lease. The Council only has site control until it's assigned to someone else. Town Administrator Wojcik noted the lease was very specific, cited page 4, clause e. Councilor Pelletier questioned if the language was sufficient enough. Solicitor DeSisto opined for the option terms the language was good enough; some of the language does not conform to RI Law; will have to be some changes to page 4, subsection b, it would be subject to further review by Legal Counsel.

Councilor Pelletier did not want to vote on an agreement without seeing the language in the terms of the agreement. President deMedeiros preferred to see it the way it would be going to Bluesphere; agreed with Councilor Pelletier. The T/A noted it was an option agreement and regulated according to State Law which will be applied. This proposal has been before the Council for over 1 year, willing to provide sewer on Progress Way.

Councilor Lambert made a motion to Approve the Option Agreement for Long Term Lease of Real Property in Tiverton to Bluesphere Corporation, Charlotte, NC, subject to the legal tweaking Counsel has already

indicated for the legal agreement. Councilor Perry seconded the motion, President deMedeiros opined the document should already be tweaked, second time this happened this evening. This needed to be more prepared, whatever language needed to be fixed should have come to the Council that way. Councilor Sousa suggested working in some of the changes for the intersection. The motion passed on a vote of 5-2, Councilors P. Mello and Pelletier opposed.

4. Town Administrator – Ratification of Three Year Contract for Executive Administrative Assistant Mary Lou Sullivan

The evaluation was distributed to the Council last meeting; there was no discussion on this item.

Councilor Pelletier made a motion to Ratify and Approve the Three Year Contract for Mary Lou Sullivan, Executive Administrative Assistant. The motion, seconded by Councilor Chabot passed unanimously.

H-BIDS AND REQUESTS FOR PROPOSALS:

1. Chief Blakey – Request Permission to Advertise for Bids to Purchase Two (2) 2016 or 2017 Dodge Charger Police AWD Vehicles (No Substitutions)

Chief Blakey explained will purchase leftover cars with warranties.

Councilor Perry made a motion, seconded by Councilor Sousa to Grant Permission to Advertise for Bids to Purchase Two (2) 2016 or 2017 Dodge Charger Police AWD Vehicles (No Substitutions). The motion passed unanimously.

2. Chief Blakey – Request Permission to Advertise for Bids for a Security Camera System

Chief Blakey noted the funds were approved in the FY 16/17 budget, also looking to use grant money for the system.

Councilor Perry made a motion, seconded by Councilor P. Mello to Grant Permission to Advertise for Bids for a Security Camera System. The motion passed unanimously.

H-1-OPEN PUBLIC FORUM FOR ANNOUNCEMENTS, COMMENTS, QUESTIONS

President deMedeiros noted the three people who signed up to speak were no longer in the audience.

I-TOWN ADMINISTRATOR ANNOUNCEMENTS:

Administrator Wojcik thanked the Council for the support and the ratification of Mary Lou Sullivan's contract. The Administrative Assistant provides human resources support and professional support for the office.

J-COUNCIL ANNOUNCEMENTS:

Councilor Perry questioned the Town Planner about the continuation of a casino item from last week's meeting. Mr. Rousseau explained that attorney petitioned to extend the request to the September 6 meeting. Councilor Sousa received a letter from a resident asking the Council to continue to save money. President deMedeiros requested a copy of that letter to distribute to the Council. Councilor Chabot reminded about the Open Government seminar this Friday from 9am to noon at Roger Williams University. Councilors Sousa and Perry requested Legacy be put on the next agenda; President deMedeiros noted that would be on for discussion on the next agenda.

K-TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

There were no Solicitor items or announcements.

L-TOWN CLERK ITEMS AND ANNOUNCEMENTS

1. School Bond Ballot Question Forwarded to Secretary of State for November Ballot

2. Casino Ballot Question Forwarded to Secretary of State for November Ballot

Sally Black, School Committee liaison to the Town Council thanked the School Attorney, Town Solicitor, Town Clerk and the Board of Canvassers for making sure the questions met the deadline.

CLOSED EXECUTIVE SESSION:

1. Town Solicitor – 42-46-5(a) (2) – Litigation – McInnis v. Town, et al.

Councilor Lambert made a motion to enter into Closed Executive Session pursuant to RIGL 42-46-5(a) (2) re: Litigation – McInnis v. Town, et al. The motion, seconded by Councilor Chabot passed unanimously on a roll call vote.

The Council entered into Executive Session at approximately 10:40 p.m.

The Council returned to Open Session at approximately 10: 50 p.m.

OPEN SESSION:

Councilor deMedeiros announced no formal action was taken in Executive Session.

Councilor Chabot motioned to allow prior Solicitor Andrew Teitz to waive attorney client privilege in regard to the McInnis litigation for purpose of deposition. Seconded by Councilor Mello, motion passed unanimously.

Councilor Chabot motioned to seal the minutes of executive session. Seconded by Councilor Mello motion passed unanimously.

ADJOURNMENT:

Councilor Chabot motioned to adjourn, seconded by Councilor Mello. The motion passed unanimously.

The meeting adjourned at 10: 55 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk

APPENDIX C - SEWERS AND SEWAGE DISPOSAL Modified FOOTNOTE(S):

ARTICLE I - USE OF PUBLIC SEWERS WHERE AVAILABLE

Sec. 18-2.1. - Unlawful discharges.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the town or in any area under the jurisdiction of the town, any human or animal excrement, garbage, or objectionable waste. It shall be unlawful to discharge to any natural or manmade outlet within the town any wastewater or other polluted waters, except where in accordance with state law or local ordinance.

Sec. 18-2.2. - Use of privy, septic tank, etc.

It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater, except as provided by state law or local ordinance.

Sec. 18-2.4. - Mandatory connection for car wash, laundry, etc.

No person shall operate the business of a car wash, public laundry, automatic laundry or laundromat on any lot in the town unless such lot is served by a public sewer system or by a system which reclaims for reuse on the premises at least 80 percent of the water discharged from the washing facilities. This section shall not apply to any business, which shall have been in operation prior to adoption of this chapter and shall not apply to any gasoline station with a car wash stand to accommodate the washing of no more than one car at a time.

ARTICLE II. - PRIVATE WASTE DISPOSAL WHERE PUBLIC SEWERS NOT AVAILABLE

Sec. 18-3.1. - Private wastewater disposal.

Where a public sanitary sewer is not available under the provisions of this chapter, the building sewer shall be connected to private wastewater disposal system complying with the provisions of this article.

Sec. 18-3.2. - Compliance with state regulations.

The type, capacities location and layout of a private wastewater disposal system shall comply with the Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems and amendments thereto, as adopted by the state department of environmental management, under the authority of title 23, chapter 19.5, section 1 et seq. of the General Laws of 1956. A copy of approved ISDS application shall be provided to the superintendent.

Sec. 18-3.3. - Permit, inspection, notification.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the state department of environmental management.

Sec. 18-3.4. - Operation and maintenance.

- a) The owner shall at all times operate and maintain all the private wastewater disposal facilities on his/her private property in a sanitary condition. No person shall deposit, nor allow to be deposited in the disposal facilities, swill rubbish or solid refuse matter other than feral matter.
- b) Every property owner and/or resident of the town shall be entitled to septage dumping of residential private sewage disposal system at a City of Fall River approved facility.

Sec. 18-3.7. - Tank truck requirements and hours of cleaning.

All tank trucks for removing the contents of any privy, vault, cesspool, septic tank, or other private sewage disposal system shall be kept airtight and free from leakage. All apparatus used in the business shall be kept clean and well painted. No tank trucks shall be allowed to stand in any street except while in use.

ARTICLE III. - BUILDING SEWERS, SEWER EXTENSIONS AND CONNECTIONS

Sec. 18-4.11. - Requirements for excavation.

All excavation for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the department of public works.

Sec. 18-4.15. - Removal/fill of existing septic tanks.

Whenever a steel septic tank is disconnected and/or abandoned, the steel tank shall be pumped, removed and properly disposed of. The remaining hole shall then be filled in with suitable material.

Whenever an existing concrete septic tank or cesspool is disconnected and or abandoned, the concrete tank or cesspool pit shall be pumped, abandoned in place or removed and properly disposed of. The remaining hole shall be filled in with suitable material.

ARTICLE IV. - ONSITE WASTEWATER MANAGEMENT (OWM)

Sec. 18-9.1 - Authority.

This ordinance has been drafted in accordance with and under the authority of the title 45, chapter 24.5 of the General Laws entitled "Towns and Cities Wastewater Management Districts". The authorizing state chapter shall be known and cited as the "Rhode Island Septic System Maintenance Act of 1987". Nothing in this act replaces or precludes any obligation of the owner to notify the state department of environmental management, the state department of health, the coastal resources management council, or their successors of septic system failures.

Sec. 18-9.2. - Purpose and jurisdiction.

1) Purpose. The town council hereby finds that onsite wastewater treatment systems are prone to failure with age, out-moded design, overuse, or improper installation, repair and maintenance. Septic system failure poses a risk to public health and is a source of contamination to surface and groundwater. The purpose of this ordinance is to establish an onsite wastewater management district (OWMD) consistent with the Tiverton Comprehensive Plan and the Tiverton Onsite Wastewater Management Plan. Within this district all onsite wastewater treatment systems in Tiverton shall be properly operated, regularly inspected, and routinely maintained in order to prevent system malfunction and insure maximum system longevity. This ordinance also recognizes the property owner's responsibility to ensure that their system is well maintained and properly functioning.

2) Jurisdiction. Under this ordinance the Town of Tiverton shall have jurisdiction to ensure the operation and maintenance of all existing and future onsite wastewater treatment systems in Tiverton.

Sec. 18-9.3. - Findings.

1) The Tiverton Town Council hereby finds the following evidence in support of the establishment of an onsite wastewater management district. The Tiverton Comprehensive Plan recognizes septic systems as a source of ground and surface water contamination in the town, and states that the "town shall adopt a town-wide wastewater management district. All documentation and findings included in the Tiverton Onsite Wastewater Management Plan are incorporated herein by reference:

- a) Both now and in the in the future most of Tiverton's geographical area will rely on onsite wastewater treatment systems (OWTS or septic systems). Sewers will be available only in certain portions of northern Tiverton typically characterized by small lots, high density and slowly percolating soils.
- b) Water treated at the sewer plant is not available to recharge local aquifers, which could potentially diminish water supply in local wells.
- c) The report Limnological Investigation of Stafford Pond (1997) recommends the establishment of a septic system maintenance and management program for Stafford Pond.
- d) The comprehensive plan states that the construction and maintenance of effective septic systems is a major concern of the town especially in the Stafford and Nonquit Pond watersheds. The comprehensive plan also recommends that the town review, amend and reinforce regulations concerning the construction and maintenance of septic systems.

- e) Tiverton's ground and surface waters are important natural and recreational resources that are vital to the town's economic, environmental and public health.
- f) In some areas of town, slowly permeable soils, high water tables and improperly designed, installed and maintained, OWTS result in surface breakouts of sewage and threaten public health and the quality of receiving surface waters.
- g) Many of the onsite wastewater treatment systems in town are cesspools or other substandard systems. Some were initially designed for smaller homes that were subsequently expanded and converted to year round use, without the necessary improvements to the system.

Sec. 18-9.4 - Onsite wastewater management district definitions.

- 1) District definition. The onsite wastewater district shall include the entire Town of Tiverton.
- 2) Other definitions. Any term not defined herein shall be governed by the definition as it appears in the current RIDEM Rules and Regulations Establishing Minimum Standards Relating to the Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems (hereinafter RIDEM ISDS Regulations). Any term not defined therein shall be governed by the definition as in appears in the Tiverton Zoning Ordinance or the Tiverton Sewer Ordinance as appropriate.
- 3) Access riser. A structurally sound and water tight inspection port or manhole, which at its lowest point attaches to a septic tank or other component of an OWTS and extends upward to the ground's surface, allowing visual inspection and where necessary physical access to the OWTS for the purposes of maintenance and repair.
- 4) Contaminant. Any physical, chemical, biological or radiological substance which enters the hydrological cycle through human action and may cause a deleterious effect on ground and/or surface water resources; it shall include but not be limited to hazardous waste, nutrients, pathogens and sanitary sewage.
- 5) RIDEM. RIDEM is defined as the State of Rhode Island, Department of Environmental Management or its successor organization.
- 6) Effluent. Sewage, water or other liquid, partially or completely treated or in its natural state, flowing out of any component of an OWTS or flowing over the ground's surface or beneath the ground in groundwater.
- 7) Enhanced treatment systems. Onsite wastewater treatment that uses advanced treatment technologies, which provide for enhanced removal of one or more contaminants (e.g. nutrients, microorganisms, BOD, TSS) as compared to conventional septic systems.
- 8) Handbook. The Rhode Island Department of Environmental Management's Septic System Check-Up: The Rhode Island Handbook for Inspection as may be amended from time to time.
- 9) Hazardous waste.
 - a) Wastes which include, but are not limited to, those which are toxic, corrosive, flammable, or reactive; and/or
 - b) Wastes as defined in the Federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA) US Code: Title 42, Chapter 103 and the RI Hazardous Waste Management Act, Section 23-19.14 or in any regulation or amendment adopted pursuant thereto: and/or as defined under section 3.25 of the RI Department of Environmental Management "Rules and Regulations for Hazardous Waste Generation, Transportation, Treatment, Storage and Disposal."
- 10) OWTS inspections. The following two types of inspections are required by this ordinance:
 - a) First maintenance (baseline) inspection. The initial inspection performed on an OWTS and site to gather baseline information. The tank is usually pumped as part of this inspection to better evaluate the existing condition of the system. First maintenance inspections involve the location of system components and more detailed data gathering that is not usually necessary for subsequent routine inspections.
 - b) Routine maintenance inspection. An inspection of an OWTS and system site to determine the need for pumping, establish future inspection schedules and to assess whether any repairs are necessary.

11) Maintenance. The periodic cleaning of any leaching chamber, cesspool, septic tank, building sewer, distribution lines, or any other component of an OWTS for the purpose of removing any accumulated liquid scum and/or sludge. The term "maintenance" shall also mean any regularly required servicing or replacement of related mechanical, electrical or other equipment.

12) Notice of noncompliance. A notice sent by certified mail and issued by the Town Administrator or his/her designee his/her designee, to an owner of an OWTS for failure to comply with the provisions of this ordinance.

13) Notice of violation. A notice sent by certified mail and issued by the Town Administrator or his/her designee his/her designee, to an owner of an OWTS for failure to comply with the requirements of a notice of non-compliance.

14) Onsite wastewater management program (OWMP). A town-wide program of various zoning and subdivision regulations, ordinances, educational programs, management practices and financial incentives that are designed to help protect the integrity of Tiverton's ground and surface water through the proper management design, siting, maintenance and installation of OWTS.

15) Onsite wastewater treatment system (OWTS). Synonymous with ISDS as defined in the RIDEM ISDS Regulations.

16) Package treatment plant. A modular treatment facility of state approved design and construction. For purposes of the onsite wastewater management ordinance, package treatment plants are considered OWTS.

17) Wellhead protection area. The critical portion of a three dimensional zone surrounding a public well or well field, through which water will move towards and reach such well or well field as designated by the director of RIDEM or as adopted by the town.

Sec. 18-9.5. - Program administration.

The Town of Tiverton may enter into a contract with the Tiverton Wastewater District (TWWD) to manage the Town's onsite wastewater management program, pursuant to Section 7, paragraph 18 of the TWWD enabling legislation. Until such time, program administration shall be the responsibility of the Town Administrator, or his designee(s), who shall have the duties and powers formerly given to the Town Administrator or his/her designee and powers and duties formerly exercised by the Wastewater management commission shall be exercised by the Town Council.

Sec. 18-9.6. - Education program and phased implementation.

1) Establishment of a public education program. The Town Administrator, unless the TWWD has contracted to take over the responsibility, in cooperation with the conservation commission shall develop and oversee an annual education strategy designed to facilitate the effective implementation of the onsite wastewater management plan, the onsite wastewater management ordinance and related zoning and subdivision regulations. The education plan will be on file with the Town Administrator or his/her designee. The plan shall be updated by November 30th each year for implementation the following fiscal year. The educational program for any given year may include, but is not be limited to the following:

- a) Need, benefits and goals of onsite wastewater management.
- b) Proper inspection, operation and maintenance of OWTS.
- c) Operation and management framework of the program.
- d) Proper disposal of hazardous waste, including household hazardous waste.
- e) Water conservation.
- f) Protection of sensitive resources.
- g) Use of environmentally sensitive cleaning products.
- h) Use of alternative and innovative septic systems and associated technologies.
- i) Costs of program and availability of financial assistance.
- j) Informing designers, installers, and inspectors of specific Tiverton requirement.

2) Technical assistance. All persons applying to RIDEM for new OWTS installations, repairs or alterations shall meet with the Town Administrator or his/her designee or his/her designee prior to be system design in order to ensure that the design is consistent with town policy regarding treatment standards, which may be more stringent than RIDEM'S.

3) Phased implementation. The implementation of this ordinance and the timing of the first maintenance inspection shall be phased in accordance with the schedule below, as approved by the town council. In order of implementation, the five phased areas, as shown on the ONSITE WASTEWATER MANAGEMENT IMPLEMENTATION MAP, shall be as follows:

- a) Stafford Pond Watershed — Upon adoption of this ordinance
- b) Nanaquaket Pond Watershed — July 1, 2008
- c) Nonquit Pond Watershed — July 1, 2010
- d) Sakonnet Waterfront — July 1, 2012
- e) Remainder of Town — July 1, 2014

Sec. 18-9.7. - OWTS inspection and maintenance.

1) OWTS inspections. The purpose of OWTS inspections is to assess the current condition of the OWTS in order to determine a) what maintenance is required, b) when the maintenance should be undertaken c) the date of the next inspection and d) the need for system upgrade or replacement. Maintenance requirements shall be based upon inspection results. Information from the inspections will also be used to complete a town-wide OWTS inventory and to track system inspections, maintenance and upgrades. All inspections shall follow the criteria and procedures outlined in the Rhode Island Department of Environmental Management's Septic System Check-Up: The Rhode Island Handbook for Inspection (hereinafter referred to as "The Handbook").

2) Inspection types. The following two types of inspections shall be required: a) First Maintenance (Baseline) Inspection, and b) Routine Maintenance Inspection:

- a) A first maintenance (baseline) inspection of each OWTS in town shall be conducted in order to obtain baseline information and to determine a routine maintenance schedule and potential upgrade requirements. The septic tank shall be pumped as part of this inspection to better evaluate the condition of the system. First maintenance inspections shall also involve data gathering and location of system components.
- b) Routine maintenance inspections are generally conducted after the first maintenance (baseline) inspection and may occur between septic tank pump-outs. The frequency of routine maintenance inspections shall be determined by the conditions found at the first maintenance (baseline) inspection or during subsequent routine maintenance inspections. Routine maintenance inspections for any given OWTS may be limited to sludge and scum measurements within a septic tank, or may include inspection and/or testing of components.

3) Who may inspect. All OWTS shall be subject to inspections by private, town-approved inspectors. In order for an inspector to be approved by the town, he/she must satisfactorily complete a course, approved by the town in a methodology consistent with use of the handbook. The Town Administrator or his designee shall maintain a list of approved inspectors and make such list available to property owners for the purpose of arranging the inspection of their own OWTS.

4) Inspection frequency and notification. The Town Administrator or his designee shall send written notice to OWTS owners of the need to schedule the first maintenance inspection as well as subsequent routine maintenance inspections of their septic system. The owner must complete an inspection with an approved inspector within 45 days of the date of notice. In general, inspection frequency for routine maintenance inspections shall be based on the results of the first maintenance (baseline) inspection, subsequent routine maintenance inspections and procedures outlined in the handbook. These include, but are not limited to, system age, household occupancy, tank size, sludge and scum measurements and when the system was last pumped. After a system has been inspected the owner shall receive notification of the maintenance requirements and the timeframe for the next inspection. The Town Administrator or his designee shall send a reminder notice to the owner as the date of the next routine maintenance inspection approaches.

5) Inspection reports. Standard inspection forms shall be those approved by the Town Administrator or his designee. These forms may be modified by the Town Administrator or his/her designee as needed to meet the technical and administrative needs of the program. The property owner shall provide the inspector with any available pertinent information, including but not limited to, the use, age, location, maintenance history and design of the system. The completed inspection report shall detail the results of the inspection, pumping or other maintenance requirements (if applicable), the timeframe for the next inspection and/or upgrade requirements for the OWTS. The inspector shall give the property owner and the Town Administrator or his designee an inspection report that details the OWTS condition, components, required maintenance and the date of the next routine maintenance inspection. The Town Administrator or his/her designee shall be responsible for maintaining the inspection, maintenance and upgrade records.

6) OWTS maintenance and owner's responsibility. The OWTS owner(s) shall assume all responsibility for hiring a septage hauler or maintenance contractor to complete the maintenance and inspection requirements contained in the OWTS inspection report within the time frame required. As proof of compliance, the property owner shall submit a receipt for pumping and other system maintenance to the Town Administrator or his/her designee within 30 days of the date stipulated in the OWTS inspection report.

7) Change in Inspection or Maintenance Schedule. The Town Administrator or his/her designee, upon written notification to the property owner and the appropriate OWTS inspector, may change the inspection schedule and/or maintenance requirements of an OWTS, where such a change is deemed necessary for the proper functioning of the OWTS. Reasons for a schedule change, include but are not limited to, change in household occupancy, seasonal use, rental status, water consumption, system functioning, site characteristics and proximity to sensitive resources such as water supplies, poor soils, and coastal and freshwater wetlands. Likewise, the property owner(s) may petition the Town Administrator or his/her designee to alter the inspection and/or maintenance schedule. The owner must demonstrate, to the satisfaction of the Town Administrator or his/her designee through the use of appropriate site data and household information that such a change in the requirements would still ensure the proper operation of the OWTS and not impair the intent of this ordinance.

8) Immediate need to pump. In the event of a system failure or malfunction where there is an immediate need to PUMP that poses a public health or environmental hazard, the inspector shall immediately notify the property owner and the Town Administrator or his/her designee. The Town Administrator or his/her designee shall immediately serve upon the owner a notice and order directing the owner to immediately pump the system and to present evidence of pumping to the Town Administrator or his/her designee. Such evidence may be in the form of a receipt from an approved septage hauler. Failure to comply with this administrative order shall constitute a violation under this ordinance.

9) Failed OWTS. If an inspection reveals a failed owts, the town-approved inspector shall immediately notify the Town Administrator or his/her designee and the OWTS owner and send a copy of the inspection report to both parties. Where pumping records may indicate a failed system, the Town Administrator or his/her designee shall notify the owner in writing. Technologies selected to replace or repair failed systems shall be consistent with state regulations and town ordinances regarding treatment standards. At the owner's request, and in order to facilitate the septic system repair application with RIDEM, the Town Administrator or his/her designee or his/her designee shall meet with the owner to provide technical and administrative assistance regarding repairs. Such assistance shall be designed to help the owner through the application process, to understand technical issues and appropriate system choices and to solve the problem in a fair and expeditious manner. It does not relieve the owner's responsibility to hire needed professional assistance.

10) Notification of failed system. The Town Administrator or his/her designee shall give the owner of a failed system a written notice of noncompliance to repair the system. A copy of said notice shall also be sent to the department of environmental management. The owner shall be given 30 days to contact RIDEM and apply for a permit to repair or replace the system as necessary. The Town Administrator or his/her designee may require immediate remedial action to protect public health. A copy of the application to RIDEM shall be provided to the Town Administrator or his/her designee. Notification of RIDEM by the Town Administrator or his/her designee does not relieve the owner of their obligation to notify RIDEM. The property owner shall notify the, Town Administrator or his/her designee as to the expected timetable for repairs to be completed

Sec. 18-9.8. - Miscellaneous regulations for OWTS operation and maintenance.

1) Septage disposal. Septage or contents pumped from an OWTS shall be discharged at the Fall River Wastewater Treatment Facility or other state-approved septage receiving facility.

2) Septic tank additives and improper discharges to OWTS: The use of septic tank additives shall follow RIDEM's policy, which prohibits the use of chemical additives. There is no evidence that biological additives provide any benefit to the functioning and maintenance of an OWTS. The use of biological additives does not relieve a property owner from the obligations of this ordinance. The disposal of hazardous wastes, to an OWTS is prohibited. There shall be no discharge of rainpouts, basement sumps, floor drains, or any other drains, other than those carrying household wastewater, to an OWTS.

3) Accessibility, effluent filters and inspection ports. All tanks installed, repaired, upgraded or altered after the effective date of this ordinance, shall be equipped with access risers to grade located at the inlet and outlet ends of the septic tank.

Effluent filters are recommended at the outlet end of the tank. These measures will help locate the system, facing the inspection and pumping of a septic tank and ultimately the longevity of the OWTS. These items shall be installed in accordance with specifications available from the Town Administrator or his/her designee. Center access tanks shall not be used for new septic systems or for systems where the septic tank is being replaced. Any tank in good condition, installed prior to the effective date of this ordinance and without an access riser to grade shall be retrofitted with riser(s) in accordance with specifications available from the Town Administrator or his/her designee. The access riser(s) shall be installed no later than 30 days following the First Maintenance Inspection.

4) Watertight septic tanks. Per RIDEM regulations, any existing tank that leaks may be declared a failed system. All septic tanks installed after the effective date of this ordinance shall be certified watertight in accordance with American Society for Testing and Materials (ASTM) minimum standards or those developed by the Town Administrator or his/her designee. Tank installation must be done in accordance with manufacturers requirements. In addition, all new or replacement tanks must be site tested to ensure that they are watertight. The accepted procedure(s) for site testing tanks as watertight shall be available from the Tiverton Town Administrator or his/her designee.

5) Cesspools. According to RIDEM, cesspools are a sub-standard and inadequate means of on-site wastewater treatment. All cesspools shall be brought into conformance with current state and local standards within 12 months after the sale of a property. This subsection shall take effect as of January 1, 2007, unless: either a listing agreement contract with a licensed real estate broker shall have been signed by the owner(s) of the property and the broker prior to January 1, 2007, in which case any buyer(s) of said property from that owner(s) while the listing agreement contract is in effect, shall be exempt from this requirement; or a purchase and sales agreement for the property shall have been signed by the owner(s) of the property and the prospective buyer(s) prior to January 1, 2007, in which case, the buyer(s) named in such purchase and sales agreement shall be exempt from this requirement.

6) Notwithstanding the foregoing, the closing and the conveyance of the property must take place by January 1, 2009 in order to qualify for this exemption.

7) Package treatment plants. At a minimum a licensed grade one operator must operate all package treatment plants.

Sec. 18-9.9. - Enforcement.

1) Failure to inspect, repair, pump or maintain an OWTS. If an owner fails to inspect repair, pump or otherwise maintain an OWTS as specified in this ordinance within the timeframe provided under this ordinance and to submit proof of such to the Town Administrator or his/her designee they shall be in non-compliance under this ordinance.

2) Notice of non-compliance. If an owner of an OWTS is determined to be in non-compliance of this ordinance the Town Administrator or his/her designee, shall issue a written notice of non-compliance via certified mail to the owner. The notice shall explain the nature of the non-compliance, required actions, any assistance that is available from the Town Administrator or his/her designee a reasonable time frame for compliance, and the possible consequences for non-compliance.

3) Notice of violation. If an owner of an OWTS fails to comply with the notice of non-compliance, the owner shall be deemed in violation of this ordinance and the Town Administrator or his/her designee shall issue a written notice of violation. The notice shall be sent certified mail and shall explain the nature of the violation, required actions and timeframe to remedy the violation, assistance available from the Town Administrator or his/her designee, and the penalties for failure to correct the violation within the required timeframe.

4) Administrative review meeting. A person is encouraged to resolve issues at an informal administrative level before appealing a decision of the Town Administrator or his/her designee. Any owner of an OWTS who receives a notice of non-compliance or a notice of violation, or who is otherwise aggrieved by any action of the town pursuant to this ordinance, shall have the right to an administrative conference with the Town Administrator or his/her designee to determine how best to bring the system into compliance. In the case of a notice of non-compliance or a notice of violation, an administrative meeting, if desired, shall be requested in writing within ten days following the date of notice. A request for an administrative conference shall stay all proceedings under the appeal procedure. A written consent agreement signed by the Town Administrator or his/her designee and the OWTS owner shall outline the specifics of any agreement developed as the result of the administrative meeting. Alternately, an owner who has received a notice of non-compliance stating that they

have not inspected or maintained their system as required may simply submit proof that such inspection or maintenance has been completed.

5) Penalties. Any person who fails to comply with a written notice of violation issued under the provisions of this ordinance shall be deemed to be in violation and may be fined not more than \$500.00 per violation. Each day of a continuing violation may be construed to constitute a separate and distinct violation. All fees/fines shall be paid to the town in accordance with its charter. The Town of Tiverton shall maintain its right to legal and equitable remedies that may be available in order to enforce compliance with the provisions of this ordinance.

6) Failure to pay. Failure to pay any fees, or fines assessed by the town for the administration of the wastewater management district shall constitute a lien on the owner's property. In addition to the bill and any associated fines, the OWTS owner shall be responsible for any interest, administrative and court costs associated with the collection of the funds.

Sec. 18-9.10. - Appeals and variances.

1) Appeals. An aggrieved party shall have the right to appeal the decision of the Town Administrator or his/her designee to the Tiverton Town Council by submitting a written request within ten days after the notification of the action. The written appeal shall be heard by the Town Council within 30 days from the date of the filing. The Town Council shall make a final ruling on the appeal within 15 days of the close of the meeting. The Town Administrator or his/her designee's decision, action or determination shall remain in effect during such period or reconsideration.

2) Variances. Any party aggrieved by a determination pursuant to section 18-9.8(5), entitled cesspools, shall have the right to seek a variance from the Town Council by submitting a written request within ten days after the notification of the action. The variance request shall be heard by the Town Council within 30 days from the date of the filing. The Town Council shall make a final ruling on the variance within 15 days of the close of the meeting. In considering such variance, the Town Council shall only grant such variance based on findings of fact that application of said section 18-9.8(5) to the applicant would amount to a severe hardship based on the cost of a new septic system in relation to the cost of the house, or that the application of said section 18-9.8(5) to the applicant would be manifestly unfair in light of the circumstances of the sale of the property.

Sec. 18-9.11. - Financing.

1) Program financing. The town council shall have the authority to raise funds for the administration, operation, contractual obligations, and services of the onsite wastewater management program (OWMP).

2) Fee structure. The Town Administrator or his/her designee may propose a fee schedule, for approval by the town council as a resolution, to be assessed each owner of an onsite wastewater treatment system. Said fee shall be based on the total number of OWTS in town and the administrative and technical costs associated with providing the services herein. Any funds collected or raised for purposes of implementing the onsite wastewater management program shall be kept as a dedicated account separate from the town's general fund.

3) Grant and loan program. The town under the authority of the state legislature shall have the authority to issue bonds or notes and to receive grants for the purpose of establishing a revolving fund. This fund may be used to make low interest loans or grants available to qualified property owners for the improvement, correction, or replacement of a failed OWTS. The Town Administrator or his/her designee, with the approval of the town council, shall establish specific criteria to define eligibility for grants or loans.

Sec. 18-9.12. - Severability.

If any provision of this ordinance or any rule or determination made hereunder, or application hereof to any person, agency, or circumstances is held invalid by a court of competent jurisdiction, the remainder of this ordinance and its application to any person, agency, or circumstance shall not be affected thereby. the invalidity of any section or sections of this ordinance shall not affect the validity of the remainder of this ordinance.